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RIGHTS OF THE CHILD

Written statement*/ submitted by the Romanian Independent Society of Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[9 January 2001]

*/ This written statement is issued, unedited, as received in English and French from the submitting non-governmental organization(s).

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ENG

(1) SIRDO is a non-governmental organisation that has been functioning for the last 10 years in Romania, its purpose being the protection and the promotion of human rights and fundamental freedoms. The activities of the organisation are currently focused on the assistance and legal support for disfavoured categories, human rights education and the monitoring of the manner in which the state institutions respect the international pledges.

(2) In the year 2000, with the support of the Information and Documentation Centre on the Council of Europe in Bucharest, SIRDO developed the project of education by means of information on human rights notions for the detainees in the penitentiaries in Romania.

Special attention has been granted to the treatment applied to underage people, who are deprived of freedom. According to the internal legal provisions, any person younger than 18 are considered to be underage. The General Direction of Penitentiaries within the Ministry of Justice has in custody underage people in the Re-education centres (CR) in Tichilesti and the one in Gaesti. These institutions house confined underage people and also convicted underage people who have been deprived of freedom as a consequence of a Court decision. Both Centres have a regime of confinement, such as detention and at Tichilesti there is also an echelon of adult detainees, which allows the existence of a guarding system, formed of armed staff and exterior enclosure, with a watch tower placed higher.

(3) The confined underage people are brought to CR by police officers, and they are street children, children abandoned by their parents in public establishments, underage people from orphanages, underage people whose parents have separated, most of them being Rroma - the specific features of their background being poverty and illiteracy - and underage people with mental retardation. Being unable to solve their problems on social security, the underage are confined in the CR on the basis of a judiciary decision.

The convicted underage people are taken to CR on the basis of a Court decision, taken as a consequence of the underage having made offences stipulated in the national penal laws. In Romania there are special Courts for the underage, and the underage are taken to the places where they made offences until the final judgement. In most penitentiaries from Romania there are underage people who have been sentenced or whose case is still being judged. They are separated from the rest of the detainees, but they are not treated differently according to their age and most of the times they are subordinated to the room chief, who is an adult appointed by the management of the penitentiaries.

(4) The role of the police and of the Prosecutor's Office is essential for establishing the guilt of the underage. The investigation is violent, it is conducted in the absence of the parents or the ex officio lawyer, and the practice of accusing the underage for files with unknown authors is quite frequent. An aberrant case in SIRDO's attention is that of an underage male, taken from the street by police officers, who beat him during the investigation for acknowledging a number of 200 (two hundred!) offences. If underage people are involved, justice becomes the accomplice of police and the Prosecutor's Office, without exerting its active role during the judiciary investigation. For underage people sentenced to punishments, punishment constitutes penal antecedents at the age of 18.

In the CR, the confined underage and the convicted underage are equally applied treatments outside the field of children's rights protection and respect for the international norms that are to be applied to the juvenile delinquents deprived of freedom. The underage people's forms of protest are self-maiming and food refusal.

(5) Supporting our report by means of the things presented above, we consider that the Romanian State is guilty of the following:

- the practice of torture and inhuman and degrading treatments against underage people during the police investigation and the Prosecutor's Office investigation;
- the annulment of the right to a fair trial by ignoring the underage people's declarations as regards the atrocities committed by the authorities during the investigation stage;
- the practice of torture and inhuman and degrading treatments by guards, in the CR;
- the isolation of the underage population - who should benefit of social help and support for social integration - in institutions with a confinement regime, the submission of underage delinquents to isolation, shortages and punishments;
- a discipline regime similar to the one in a penitentiary, as punishments and sanctions are applied by a guarding and supervision system and by teachers in charge with their education and with the liquidation of illiteracy;
- methods of diversion and a state of suspicion created by the interference of SIPA (Independent Unit for Protection and Anti-Corruption) in the underage people's most intimate problems;
- the infringement of the right to education, as the provisions of Law no. 23/1969, from the Communist period, are also applied in the CR, the law establishes the main purpose for the penitentiary system, namely the re-education by means of work.

The infringement of the right to education by applying punishments including isolation up to 15 days, while the underage are excluded from school education.

The underage are forced to apply for a programme of professional training for jobs which are not competitive on the labour market, at the end of which they are offered certificates which are inferior as regards the duration of training, as compared to the certificates obtained by free underage people who have graduated from vocational schools.

The underage are submitted to forced deprivation of freedom until they are 18 if they can not obtain that qualification;

- the infringement of the right to health, as there are no serious measures on hygiene that are necessary in large groups of people. Special treatments for serious physical or psychic illnesses are lacking and they are exterminated outside the national system of protection, care and aid for people with deficiencies.
- the use of forced labour of the underage and their obligation to develop practical activities that require major physical efforts for their age (i.e. carpentry, manufacturing of metal, metal nets, luxury furniture, concrete prefab and panels and slabs for roads, car painting and repairs etc.), while labour protection norms are utterly ignored. The beneficiaries of the products are either private firms that have firm order contracts, or the staff of the centres, which benefit of the forced labour of the underage, according to the internal norms of the General Direction of Penitentiaries. This is an official practice, and in front of the CR in Gaesti there is a panel advertising the products of the underage people's forced labour.

(6) In these dramatic circumstances, having in view that Romania ratified the Convention on the Rights of the Child in 1990, that it has numerous obligations devolving from the international and regional instruments in which it is a party, we insistently request the Commission on Human Rights, by using the competence of the Rapporteur on Torture and of the Rapporteur on the Rights of the Child, who have received concrete cases, to urgently resort to the following measures, together with UNICEF and ILO:

- to request Romania to present a detailed report regarding the scope of juvenile delinquency, in order to establish the measures meant to qualify the establishment of the special Court for the Underage;

- the separation of delinquent sentenced underage people from confined underage people and their repartition in competent institutions that should answer the necessities to protect the right to health and the right to education, and the CR should be sub-ordered to the Ministry of the National Education;

- the establishment of the Penitentiary specialised in delinquent tried and sentenced underage people, that should have an open regime and the necessary capacities for an efficient custody, by programmes that should have in view the major interest of the child, the child's social integration. The demilitarisation of the penitentiary staff and the cancellation of the information service SIPA;

- the hospitalisation of the underage with physical or mental deficiencies who are at present in the custody of the General Direction of Penitentiaries, in health institutions, for them to rejoice an adequate treatment of recovery and effective protection. According to the law (Penal Code, art. 105), there is a possibility for the underage belonging to this category to be hospitalised in a Medical-Training Institute, that should be different from the Centre of Re-education;

- sanctioning Romania for practising torture, inhuman and degrading treatment on the delinquent underage who are in police lock-ups and in Centres of Re-education and in penitentiaries. The monitoring of the way delinquent underage people are treated during the investigation, by respecting the right to a hearing only in the presence of the parents or the legal defender. Granting free assistance during the penal process for the underage victims, by paying the appropriate respect for the defence, the punishment of the guilty persons and the possibility to obtain remedies;

- sanctioning Romanian for practising the forced labour of the delinquent children who are deprived of freedom and for the fact that profits are obtained from their work;

- the establishment of emergency measures for Romania's unreserved ratification, of ILO Convention no. 182 - Combat the Worst Forms of Child Labour.